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2/29/08

In re Application of:
Meert, Philippe
Serial No. 10/823,247
Filed: Apr. 13, 2004
Docket: 38996-1

DECISION ON PETITION
UNDER 37 CFR § 1.181

Title: EYEGGLASS CLEANER

This is a decision on the petition to withdraw holding of abandonment filed on Jan. 8, 2008. The petition is considered pursuant to 37 CFR 1.181(a). No fee is required. The petitioner requests withdrawal of the holding of abandonment.

The petition is **GRANTED**.

The present application was held abandoned for failure to timely submit a corrected drawing as required by the examiner in the Notice of Allowance mailed Aug. 24, 2007. The Notice of Allowance sets forth a three-month period for payment of issue fee and submission of a corrected drawing. On Dec. 20, 2007, the application became abandoned for failure to submit a corrected drawing and a Notice of abandonment was mailed.

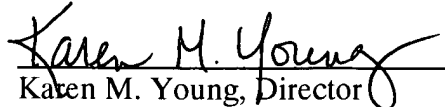
In the petition, petitioner asserts that a timely payment of issue fee was made on Nov. 8, 2007. Petitioner purports that the examiner's e-mail of Aug. 31, 2007 had lead him to believe he does not have to make any changes/additions because the examiner indicated that the case was complete.

In this particular situation, the e-mail is considered part of the written record¹. Under the circumstances, the examiner's e-mail of Aug. 31, 2007 indeed mislead the applicant into believing that no further changes or additions were necessary. The applicant has relied on such e-mail. The holding of abandonment is withdrawn. The examiner has been directed to accept the corrected drawing filed on Jan. 8, 2008.

1. 37 CFR § 1.2 Business to be transacted in writing. All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

In view of the above, the Notice of Abandonment mailed Dec. 20, 2007 is withdrawn and the late filing of the corrected drawing is accepted. This application is being forwarded to the Office of Publications for further processing.

Petition Granted.



Karen M. Young, Director
Technology Center 3700